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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Tony Joe Brice

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04/18/2006

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EXAMINER

POND, ROBERT M

ART UNIT

PAPER NUMBER

3625

DATE MAILED: 04/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/779,974

Applicant(s)

BRICE ET AL.

Examiner

Robert M. Pond

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

The Applicant amended claims 1 and 14 to distinguish over the prior art. All pending claims (1-18) were examined in this final office action necessitated by amendment.

Response to Arguments

Applicant's arguments filed 30 January 2006 have been fully considered but they are not persuasive. Both the Andrews and Walker references offer teachings pertinent to package bundling. Andrews teaches vendors registering currently existing bundles which satisfies "preset arrangements with the respective potential providers." The Applicant's arguments offer more specificity than the overly broad claim language supports.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. **Claims 1-4, 6-10, and 14-18 are rejected under 35 USC 103(a) as being unpatentable over Domenick (Paper #20040811, US 2002/0072937) in view of Andrews (Paper #8, US 6,285,986).**

Domenick teaches a system and method for presenting travel packages on-demand in response to a particular customer request. Domenick further teaches:

- Receiving a request identifying an interest in a set of items: packaging-on-demand involving the creation of a travel package in response to a particular customer request (see at least page 2, 0022); communicating with customers (see at least page 3, 0026; page 4, 0037).
- Identifying potential providers capable of providing items; in response to receiving the request: communicating with potential providers (see at least pages 2-3, 0025; page 3, 0028; page 4, 0036).
- Packaging multiple items from a plurality of different providers: vacation package including car rental; different providers (see at least page 3, 0028; page 4, 0037).

- Providing information reflecting the package of items: communicating offers with customer over email or web site (see at least page 3, 0029).
- Receiving a purchase request: packaging system receives customer order (see at least page 4, 0036).
- Providing a confirmation: dynamic packaging engine receives the customer order, confirms availability, and books the services on behalf of the customer (see at least page 3, 0029).
- Discounting packaged items: rental car company offering a discount for its services when packaged in combination with airfare from a particular airline (see at least page 4, 0034). Please note examiner's interpretation: price of car rental will be less than if purchased alone, and total price of package combining car rental with a particular airline results in cost that is less than the sum of the car rental purchased alone and airfare purchased alone.
- Package request processor: dynamic packaging engine (see at least Fig. 2 (204); page 3, 0029).
- Provider database: market place engine and provider database (see at least Fig. 2 (202, 208); page 3, 0028).
- System generates packages based partially on agreements: rules determining provider's items are validly included (see at least page 3, 0028; 0034).

- Booking engine: dynamic packaging engine reserves requested services on behalf of the consumer (see at least page 3, 0029).

Domenick teaches all the above as noted under the 103(a) rejection and teaches a) selling agents, b) a bundled packaging system connecting consumers to sellers (please note examiner's interpretation: automated system is a selling agent for the sellers), c) sellers supplying products and services for a bundled offering, and b) purchases being made by buyers, but does not disclose determining compensation to at least one selling agent. Andrews teaches a system and method of bundling products and services from one or more providers at a bundle server (please note examiner's interpretation: a selling agent for the bundled vendors) in communication over a network with vendors of products and services, the bundle server providing information on the bundled package of items (e.g. bundle profile), and receiving a request to purchase a bundle package from a participating member (please see at least abstract; Fig. 1 (10, 24, 26-32, 34-40); col. 2, line 59 through col. 4, line 44). Andrews teaches a bundle vendor taking the responsibility of generating a bundle package (please note examiner's interpretation: bundle vendor becomes selling agent for other vendors included in the bundle; an appropriate party). Andrews teaches the controller's bundled tracking system tracking and generating status conditions, and further teaches a bundled package status whereby a closed status indicates that the bundle has been completely sold and all appropriate parties have been paid (please note examiner's interpretation: system and method determines

compensation for all appropriate parties). Therefore it would have been obvious to one of ordinary skill in the art at time of the invention to modify the method Domenick to process compensation for all appropriate parties as taught by Andrews, in order to attract selling agents and vendors to participate in the service.

Domenick teaches all the above as noted under the 103(a) but does not disclose preset arrangements with the respective potential providers. Andrews teaches vendors registering currently existing bundles (see at least col. 5, lines 40-45; col. 7, lines 32-64) and further teaches vendor registration as selective (please note examiner's interpretation: system exercising control over vendor registration- ie. vendor quality, product quality, appropriate products for site, etc.). Therefore it would have been obvious to one of ordinary skill in the art at time of the invention to modify the method Domenick to have present arrangements with vendors as taught by Andrews, in order to control vendor registration.

Domenick and Andrews teach all the above as noted under the 103(a) rejection and teach a) travel agents as selling agents for providers, b) a bundle vendor as a selling agent for vendors included in a bundled package, c) selling agents selling bundled products for vendors selling products, and d) determining that all appropriate parties have been compensated once a bundle package sell is complete, but do not specifically disclose compensating at least one selling agent. It would have been obvious to one of ordinary skill in the art at time of the invention to disclose determining compensation for selling agents, since it is well

within the skill to ascertain that selling agents receive compensation for services rendered.

Pertaining to system Claims 14-18

Rejection of claims 14-18 is based on the same rationale as noted above.

2. **Claim 5 is rejected under 35 USC 103(a) as being unpatentable over Domenick (Paper # 20040811, patent application number 2002/0072937) and Andrews (Paper #8, patent number 6,285,986), in view Official Notice (Paper #8, regarding commission structure).**

Domenick and Andrews teach all the above as noted under the 103(a) rejection and further teach selling agents using the system to sell bundle packages (see at least col. 13, lines 16-22) and all parties involved in selling a bundle package being compensated, but do not specifically disclose a commission structure. This examiner takes the position that it is old and well-known that sellers of goods and services are compensated by being paid a commission based upon old and well-known commission structures (e.g. a percentage of gross sales, a percentage of net sales (sales price minus costs), or combination). Therefore it would have been obvious to one of ordinary skill in the art at time of the invention to modify the system and method of Andrews to disclose a commission structure as taught by Official Notice, in order to more fully inform selling agents and providers how they will be compensated, and thereby attract providers to the bundled package service.

- 3. Claims 11-13 are rejected under 35 USC 103(a) as being unpatentable over Domenick (Paper # 20040811, patent application number 2002/0072937) and Andrews (Paper #8, patent number 6,285,986), as applied to Claim 1, further in view of Walker et al. (Paper #5, IDS, patent number 6,138,105 hereinafter referred to as "Walker").**

Domenick and Andrews teach all the above as noted under the 103(a) rejection and further teach a) the bundle server prompting the vendor for item suggested retail price and the item price if included in a bundled package, and b) minimum auction price if included in an auctioned bundle (see at least col. 8, lines 13-21), but do not disclose specifics on bundle pricing schemes. Walker teaches bundled packaging of goods and services and pricing of bundled packages. Walker further teaches:

- bundling French fries (X: examiner's notation for regular retail price of French fries) and soda (Y: examiner's notation for regular retail price of soda) at a single price that is less than the sum of the prices of the individual products (bundled single price < (X+Y)) (see col. 1, lines 33-37),
- bundling of product X (product ID 1) with product Y (product ID 2) where at least the bundled price of X is 10% less than retail price of X by a predetermined percentage (see at least Fig. 5 (506); col. 6, lines 35-62).

Therefore it would have been obvious to one of ordinary skill in the art at time of the invention to modify the method of Domenick and Andrews to disclose

bundled pricing methods as taught by Walker, in order to provide a pricing incentive to the consumer, and thereby increase sales.

Domenick and Andrews teach all the above as noted under the 103(a) rejection and further teach a) each vendor providing a suggested retail price, and b) establishing an item price if included in a bundled package, but do not specifically disclose the item being less than the item suggested retail price by a percentage. Walker teaches all the above as noted under the 103(a) rejection and teach setting an item price included in a bundle lower than the retail price of the item by a predetermined percentage to create a purchasing incentive (see at least Fig. 5 (506); col. 6, lines 35-62). Therefore it would have been obvious to one of ordinary skill in the art at time of the invention to modify the method of Domenick and Andrews to use a predetermined percentage to compute a lower item price as taught by Walker, in order to provide a pricing incentive to the consumer, and thereby increase sales.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert M. Pond whose telephone number is 571-272-6760. The examiner can normally be reached on 8:30AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Mark Fadok can be reached on 571-272-6755. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3625

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Robert M. Pond', is positioned above the printed name.

Robert M. Pond
Primary Examiner
April 13, 2006